S.B.CRIMINAL MISC. PETITION NO.487/2007
(Mahaveer Singh Vs. State of Raj.)

Date of order : : 21.05.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr.R.K.Charan, for the petitioner.
Mr.Ashok Upadhyay, PP for the State.

By this misc. petition under Section 482 Cr.P.C., the petitioner is challenging the order dated 28.3.2007 passed by learned Special Judge, NDPS Cases, Chittorgarh whereby he has dismissed the application filed by the petitioner under Section 457 Cr.P.C. for releasing the vehicle bearing No.RJ-06 GA 0233 on Supardginama.

Learned counsel for the petitioner states that petitioner is registered owner of the said vehicle. He had given the aforesaid vehicle on hire to one Suva Lal prior to the alleged recovery. In this regard, he has also produced agreement but learned Special Judge has not considered this aspect of the matter in true perspective and has dismissed the application of the petitioner.

I have heard learned counsel for the parties and gone through the order dated 28.3.2007 passed by learned Special Judge, NDPS Cases, Chittorgarh. Learned Special Judge after considering the material came to the conclusion that doubtness of

the agreement could not be assessed at this stage and since the contraband has been recovered in commercial quantity, therefore, it cannot be said that it was transporting without knowledge of the owner of the vehicle in question.

In my considered view, learned Magistrate has not committed any illegality or irregularity in passing the order impugned. However, looking to all the facts and circumstances of the case, since the investigation is pending, the Investigating Officer is directed to expedite the investigation and file complete report before the learned Special Judge having jurisdiction within a period of one month. The petitioner may file fresh application before the concerned Special Judge for releasing the vehicle in question on Supardginama who shall decide the application of the petitioner, if any, in accordance with the law after considering the material collected during investigation without being prejudiced himself from the earlier order passed by him.

With the above observations/directions, this misc. petition stands disposed of.

(KRISHAN KUMAR ACHARYA), J.

NK